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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,531	01/09/2004	Yasuhiko Kenmochi	2038-320	6485
22429	7590	05/04/2006	EXAMINER	
LOWE HAUPTMAN BERNER, LLP			HILL, LAURA C	
1700 DIAGONAL ROAD			ART UNIT	
SUITE 300			PAPER NUMBER	
ALEXANDRIA, VA 22314			3761	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<p><b>Application No.</b></p> <p>10/753,531</p>	<p><b>Applicant(s)</b></p> <p>KENMOCHI ET AL</p>	
	<p><b>Examiner</b></p> <p>Laura C. Hill</p>	<p><b>Art Unit</b></p> <p>3761</p>	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 March 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7 March 2006 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to the claims 1-3, 6-7, 11-13 and 16 over Suzuki and claims 4-5, 8-10, 14-15 and 17-20 over Suzuki in view of Otsubo have been considered but are moot in view of the new ground(s) of rejection. However, in response to Applicant's statement that 'the Examiner has not responded to the question raised in the October 11, 2005 Amendment at page 10, i.e., whether Suzuki teaches the claimed first and second zones at (i) the annotated, elongated, strip shaped, 1<sup>st</sup> and 2<sup>nd</sup> zones (Examiner's annotated Fig. 22) or (ii) the triangular zones T1, T2 (Fig. 21B)' [see Remarks page 8, paragraph 3], the Examiner would like to point out that the 1<sup>st</sup> and 2<sup>nd</sup> zones were interpreted to be the triangular regions T1, T2 as stated on page 3, lines 1-2 of the Final action dated 7 December 2005.

### ***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Pull-on Disposable Wearing Article with Tapered Folding Guide Lines and Tucking Zones.

***Claim Language Interpretation***

4. Upon further consideration, the term 'elastic' is given its broadest reasonable interpretation consistent with the specification of 'stretchable and contractible' (see Applicant's Abstract, lines 10-12).

5. It is noted that 'each of said first and second elastically stretchable and contractible members is directly attached to said core' as recited in claim 8 is 'directly attached' since the absorbent core is joined to the inner surfaces of top sheet 2 and outer sheet 4 (instant Specification, pages 24-25) and the first and second elastic members 24, 25 is bonded to the inner surfaces of the top sheet 2 and outer sheet 5 (instant Specification, page 22, line 22-page 23, line 1). It is noted that Applicant also states that elastic members 24, 25 are interposed between top sheet 2 and core 4 and joined thereto (instant Specification, page 12, lines 5-7).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had

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possession of the claimed invention. Specifically, Examiner can find no support for the amended limitation of 'wherein said first and second elastically stretchable and contractible members are not part of any of said longitudinal barriers'. Since the first and second zones 21, 22 form the longitudinal barriers and the zones contain the first and second elastically stretchable and contractible members 24, 25, the contractible members would form the longitudinal barriers.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 5-11 and 14-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Otsubo et al. (US 2004/0133178; herein 'Otsubo 178'). Regarding claims 1 and 6 Otsubo 178 discloses pull-on pants-type disposable wearing article improved so that the crotch region can be properly placed in close contact with a wearer's crotch area for improved comfort and reduced leakage (page 1, paragraph 0006) comprising a chassis 1 with waist member 1a and crotch member 1b (page 2, paragraph 0027, lines 1-3) waist hole 10, pair of leg holes 11a, 11b (page 2, paragraph 0029, lines 11-12), absorbent panel 4 interposed between liquid-pervious inner sheet 2 and liquid-impervious outer sheet 3 (page 2, paragraph 0027, lines 3-8), first and second leg-

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surrounding lateral margins adjacent the leg holes 11a, 11b (figure 3); said crotch region 33 being formed with a pair of first folding guide lines 16 extending from two points on the leg surrounding lateral margin toward a transverse middle 33a of the crotch region 33 (page 2, paragraph 0034, lines 1-5 and figure 3) and a pair of second folding guide lines 17 extending from two points on the second leg surrounding lateral margins toward the transverse middle [transverse middle is adjacent third zone 33a] of said crotch region 33 so that the crotch region is divided into a first triangular tapering zone 19 enclosed by the first leg-surrounding lateral margin and the first folding guide lines 16 and a second triangular tapering zone 20 enclosed by said second leg-surrounding lateral margin and said second folding guide lines 17 and a third zone 33a except/outside of the first and second zones (page 2, paragraph 0034, lines 1-9, page 4, paragraph 0054 and figure 3); a first elastic member 41 extending in the thigh-surrounding direction across the first zone to the third zone 33a (figures 11-12) and is contractible attached to the article inside the edge of core 4 on the side of the first-leg surrounding lateral margin (page 5, paragraph 0065, lines 8-14) and a second elastic member [note the second elastic member is one strand set of element 12] extending in the leg-surrounding direction and secured to the inner surface of the inner pervious sheet 2 inside the side edge of the core 4 (page 2, paragraph 0031, lines 1-6 and figure 3); and said first zone 21 and second zone 22 rise toward the waist hole and form tucks which are convex inward of the leg-holes (page 7, paragraph 0081 and figures 2 and 4).

Regarding claims 5 and 15 Otsubo 178 discloses core 4 is absent in a portion of the first and second zones 19, 20 where darts 23 are located (figure 3).

Regarding claim 7 Otsubo 178 discloses first and second zones 19, 20 form barriers against bodily discharges to prevent discharges from leaking out of the crotch region 33 (page 4, paragraph 0045, lines 3-5), wherein said first and second elastically stretchable and contractible members 12, 41 are disposed between and inwardly spaced from entireties of the longitudinal barriers (figure 3).

Regarding claims 8-10 and 18-20 Otsubo 178 discloses elastic members 12, 41 are disposed between the core 4 and impervious outer cover sheet 3 (figures 11-13) and are shorter than the absorbent core 4 as measured in the longitudinal direction of the article (figure 12).

Regarding claim 11 assuming the amended limitation of 'elastically stretchable and contractible members are not part of any of said longitudinal barriers' is given patentable weight, Otsubo 178 discloses the article with longitudinal barriers formed by the first and second zones 19, 20 and elastic members 12, 41 as discussed above with respect to claims 1 and 7.

Regarding claim 14 Otsubo 178 discloses low stiffness middle zone 18 (page 2, paragraph 0034, lines 7-13).

Regarding claims 16-17 Otsubo 178 discloses top sheet 3 has lateral portions which extend in the transverse direction outward beyond the core 4 periphery and defines one of the longitudinal barriers since the first and second zones 19, 20 comprise the longitudinal barriers (figure 4), and the top sheet 3 is directly attached to a third elastic elastically stretchable and contractible member [note the third elastic member is the other strand set of element 12 that is not the second elastic member] so that the

longitudinal barriers rise in use above the core and first and second elastic members during use (page 7, paragraph 0081, lines 10-16, figures 2 and 12).

Regarding claims 21 Otsubo 178 discloses core 4 is folded along folding lines 16, 17 and is present in the formed tucks (figures 3 and 11).

8. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Otsubo et al. (US 6,666,851; herein 'Otsubo 851'). Otsubo 851 discloses a trunk-type disposable diaper 1 comprising front and rear opposed waist regions 2, 3 and a crotch region 10 extending between said waist regions (column 2, lines 45-50); an elastically stretchable member/waist-surrounding upper end margin 8 (column 2, lines 58-62); transversely opposite waist lateral margins are connected to form waist-opening 6 and leg-openings 7 (column 2, lines 53-58, figure 1); leg-surrounding lateral margins defined by said crotch region and extending in a leg-surrounding direction (figure 1); a liquid-absorbent core 14 in front and rear waist regions and the crotch region (column 2, line 65, figure 1); said crotch region 10 being formed with a pair of first and second folding guide lines L1, L2 extending transversely across a zone defined between the peripheral edge portions 7a so that said crotch region 10 is divided into triangular first and second zones S1, S2 and a third zone S3 extending from the folding guide lines L1, L2 into the front trunk region 2 (column 3, lines 15-18 and 24-30, figure 7); an elastic member 30 with plurality of elements/first and second elastic member disposed along the waist region (column 4, lines 30-33); said first and second zones S1, S2 tucked convexly-inwardly of leg-hole of diaper 1 as indicated by arrow X (column 3, lines 38-41 and figure 3). Otsubo further discloses third zone with stiffness inherently lower in the first and second



zones S1 and S2 since these zones are formed by fold lines and are therefore more flexible than the unfolded third zone in order to be folded.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 2-4 and 12-13 are rejected under 35 U.S.C. 103(a) as obvious over Otsubo et al. (US 2004/0133178; herein 'Otsubo 178'). Otsubo 178 discloses first and second elastically stretchable and contractible members 12, 41, respectively as discussed above with respect to claim 1. Otsubo 178 *does not expressly disclose* the first and second elastically stretchable and contractible member contraction percentage or stretch stress values in the ranges claimed. Contraction percentage and stretch stress are result-effective variables since it is well known that they are a result of the amount of force applied to the elastics and since they are a result of the length of the elastic members stretched at a predetermined ration (see instant Specification, page 13, line 15-page 14, line 1). Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify Otsubo 178 with the aforementioned elastic values, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch and Slaney*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137.

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The examiner can normally be reached on Monday through Friday (off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laura C. Hill  
Examiner  
Art Unit 3761

LCH



TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

